

Introduced by Senator Oropeza

January 29, 2009

An act to amend Sections 1247.2, 1247.4, 1247.6, 1247.63, 1247.64, 1247.8 of, to add Section 1247.61 to, and to add and repeal Section 1247.62 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 112, as introduced, Oropeza. Hemodialysis technicians.

Existing federal law sets forth certain requirements that dialysis facilities must meet in order to be certified under the Medicare Program, including a requirement that patient care dialysis technicians at those facilities complete a specified training program, have a high school diploma or equivalency, be certified under a state or national certification program, and meet all applicable state requirements, as specified.

Existing law provides for the licensure and regulation of various clinical laboratory personnel and makes a violation of those provisions a crime. Within that law, the Hemodialysis Technician Training Act prohibits a person from providing services as a hemodialysis technician without being certified by the State Department of Public Health as meeting certain requirements, as specified.

This bill would revise those requirements and prohibit a person from providing services as a hemodialysis technician without (1) being certified by a specified national certification program or (2) having a high school diploma or equivalency or 4 years of specified work experience, successfully completing a training program meeting specified requirements, and passing a standardized test, as specified. The bill would require technicians certified by the department as of the

bill's operative date to meet those requirements by April 15, 2010, as specified. The bill would make other conforming and technical, nonsubstantive changes.

By changing the definition of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would also declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
- 2 the following:
- 3 (a) In April 2008, the Centers for Medicare and Medicaid
- 4 Services (CMS) issued final regulations, the Conditions for
- 5 Coverage of End-Stage Renal Disease Facilities (Conditions for
- 6 Coverage), at Part 494 of Title 42 of the Code of Federal
- 7 Regulations, establishing conditions that dialysis facilities must
- 8 meet to be certified under the Medicare Program.
- 9 (b) The Conditions for Coverage require hemodialysis
- 10 technicians providing services at dialysis facilities to be certified
- 11 under a state certification program or a national commercially
- 12 available certification program by a specified date.
- 13 (c) The Conditions for Coverage further require hemodialysis
- 14 technicians providing services at dialysis facilities to, among other
- 15 things, have a high school diploma or equivalency and have
- 16 completed a specified training program.
- 17 (d) More than 6,000 persons provide services as hemodialysis
- 18 technicians in California.
- 19 (e) Only three national commercially available certification
- 20 programs have been approved by CMS.
- 21 (f) Therefore, it is the intent of the Legislature to revise the
- 22 Hemodialysis Technician Training Act to ensure that hemodialysis
- 23 technicians meet the requirements of the Conditions for Coverage

1 so that dialysis facilities in this state may continue to employ those
2 technicians.

3 SEC. 2. Section 1247.2 of the Business and Professions Code
4 is amended to read:

5 1247.2. For the purpose of this article, the following terms
6 have the following meaning:

7 (a) “Immediate supervision” means supervision of dialysis
8 treatment in the same room in which the dialysis treatment is being
9 performed.

10 (b) “Department” means the State Department of *Public Health*
11 *Services*.

12 (c) “Hemodialysis technician” means an unlicensed health care
13 provider who is employed by a hemodialysis clinic or unit for the
14 purpose of participating in the direct treatment of patients
15 undergoing hemodialysis.

16 SEC. 3. Section 1247.4 of the Business and Professions Code
17 is amended to read:

18 1247.4. The department shall adopt ~~rules and regulations, by~~
19 ~~July 1, 2001, prescribing minimum training standards for~~
20 ~~hemodialysis technicians who are certified pursuant to paragraphs~~
21 ~~(2), (3), and (4) of subdivision (a) of Section 1247.6~~ *it deems*
22 *necessary to implement this article.*

23 SEC. 4. Section 1247.6 of the Business and Professions Code
24 is amended to read:

25 1247.6. (a) Except during training under immediate
26 supervision, *and except as provided in Section 1247.62*, no person
27 shall provide services as a hemodialysis technician without ~~meeting~~
28 ~~one or more being certified by the department as a Certified~~
29 *Hemodialysis Technician (CHT). To be certified by the state as a*
30 *CHT, a person must meet one of the following two requirements:*

31 (1) Certification by the department as having been certified by
32 ~~the one of the following:~~

33 (A) ~~The Board of Nephrology Examination for Nurses and~~
34 ~~Technicians Examiners for Nursing and Technology (BONENT).~~

35 (B) *The Nephrology Nursing Certification Commission.*

36 (C) *The National Nephrology Certification Organization.*

37 (D) *Another national commercially available certification*
38 *program approved by the Centers for Medicare and Medicaid*
39 *Services.*

1 ~~(2) Certification by the department as having completed a~~
2 ~~department-approved training and testing program in a~~
3 ~~hemodialysis clinic or unit met the requirements of the state~~
4 ~~certification program, as set forth in Section 1247.61.~~

5 ~~(3) Certification by the department as being a graduate of a local~~
6 ~~training and testing program operated by an accredited college or~~
7 ~~accredited university approved by the department, or a graduate~~
8 ~~of a private training program approved by the department. As used~~
9 ~~in this article, accredited has the same meaning as defined by~~
10 ~~Section 94711 of the Education Code.~~

11 ~~(4) Certification by the department as hemodialysis technicians~~
12 ~~on or before the effective date of regulations adopted pursuant to~~
13 ~~Section 1247.4.~~

14 (b) This article does not apply to home dialysis patients, or
15 patient helpers not employed by the licensed facility, who have
16 undergone a home dialysis training program operated by a licensed
17 clinic or hospital as defined in Sections 1204 and 1250 of the
18 Health and Safety Code and have been certified by the medical
19 director of the facility as being competent to perform home dialysis
20 treatment.

21 ~~(e) A hemodialysis technician training program and competency~~
22 ~~test, that is approved by the department before January 1, 1998,~~
23 ~~shall not be required to be reapproved pursuant to this section or~~
24 ~~Section 1247.5 unless the department determines reapproval to be~~
25 ~~necessary to protect patient safety.~~

26 SEC. 5. Section 1247.61 is added to the Business and
27 Professions Code, to read:

28 1247.61. To be certified by the department as a Certified
29 Hemodialysis Technician (CHT), a person shall meet all three of
30 the following requirements:

31 (a) Have a high school diploma or equivalency, or have greater
32 than four years of work experience in dialysis as of October 14,
33 2008.

34 (b) Have successfully completed a training program that is
35 approved by the medical director and governing body of a
36 hemodialysis clinic or unit, under the direction of a registered
37 nurse, focused on the operation of kidney dialysis equipment and
38 machines, providing direct patient care, and communication and
39 interpersonal skills, including patient sensitivity training and care
40 of difficult patients. For purposes of this subdivision, a person

1 “successfully completes a training program” if he or she completes
2 all didactic portions of the program and demonstrates competency
3 in the knowledge and skills provided by the program.

4 (1) The training program shall include all of the following
5 subjects:

6 (A) Principles of dialysis.

7 (B) Care of patients with kidney failure, including interpersonal
8 skills.

9 (C) Dialysis procedures and documentation, including initiation,
10 proper cannulation techniques, monitoring, and termination of
11 dialysis.

12 (D) Possible complications of dialysis.

13 (E) Water treatment and dialysate preparation.

14 (F) Infection control.

15 (G) Safety.

16 (H) Dialyzer reprocessing, if applicable.

17 (2) A community or corporate-based training program, or a
18 training program offered by an educational institution, is acceptable
19 if the program meets the requirements of this subdivision.

20 (3) A person employed as a hemodialysis technician by a
21 hemodialysis clinic or unit for more than two years as of October
22 14, 2008, who does not have documentation of having successfully
23 completed a training program meeting the requirements of this
24 subdivision, shall be deemed to be in compliance with this
25 subdivision by doing both of the following:

26 (A) Passing a written exam, offered by a hemodialysis clinic or
27 unit, covering the subjects listed in paragraph (1).

28 (B) Passing a skills checklist through observation by a registered
29 nurse of the technician’s skills.

30 (c) Pass a standardized test that is approved by the department
31 and that covers, at a minimum, the subjects listed in paragraph (1)
32 of subdivision (b). This test shall be administered in a proctored
33 environment by an independent examiner. For purposes of this
34 subdivision, independent examiners may include representatives
35 appointed by End-Stage Renal Disease Network 17, End-Stage
36 Renal Disease Network 18, the California Dialysis Council, or any
37 private testing organization approved by the department for that
38 purpose.

39 SEC. 6. Section 1247.62 is added to the Business and
40 Professions Code, to read:

1 1247.62. (a) Except as provided in subdivision (b), Section
2 1247.6 shall not apply to a person certified by the department as
3 a hemodialysis technician as of the operative date of this section.

4 (b) Notwithstanding Section 1247.63, the certification of a
5 person described in subdivision (a) shall be valid until April 15,
6 2010. That person shall, on or before that date, obtain a new
7 certification under Section 1247.6 in a manner prescribed by the
8 department.

9 (c) This section shall become inoperative on July 1, 2010, and,
10 as of January 1, 2011, is repealed, unless a later enacted statute,
11 that becomes operative on or before January 1, 2011, deletes or
12 extends the dates on which it becomes inoperative and is repealed.

13 SEC. 7. Section 1247.63 of the Business and Professions Code
14 is amended to read:

15 1247.63. (a) Certification of a hemodialysis technician issued
16 by the department pursuant to subdivision (a) of Section 1247.6
17 shall be valid for four years.

18 ~~(b) Those hemodialysis technicians certified by the department~~
19 ~~or the Board of Nephrology Examination for Nurses and~~
20 ~~Technicians (BONENT) before January 1, 1995, shall, before~~
21 ~~January 1, 1996, apply to renew their certification, or in the case~~
22 ~~of those technicians certified by the Board of Nephrology~~
23 ~~Examination for Nurses and Technicians (BONENT) obtain~~
24 ~~department certification, by submitting the fee required by~~
25 ~~subdivision (n) of Section 1300 and proof of previous certification.~~
26 ~~The department shall automatically renew the certification of those~~
27 ~~hemodialysis technicians who were certified before January 1,~~
28 ~~1995, and who apply for renewal pursuant to this subdivision.~~

29 ~~(e) For renewals occurring on or after January 1, 1996, a~~

30 ~~(b) A certified~~ hemodialysis technician applying for renewal of
31 his or her certification shall submit proof that he or she has obtained
32 30 hours of in-service training or continuing education in dialysis
33 care or general health care as a requirement for the renewal of his
34 or her certification.

35 SEC. 8. Section 1247.64 of the Business and Professions Code
36 is amended to read:

37 1247.64. A hemodialysis technician may obtain the in-service
38 training or continuing education required by subdivision ~~(e)~~ (b) of
39 Section 1247.63 from one or more of the following sources:

1 (a) Health-related courses offered by accredited postsecondary
2 institutions.

3 (b) Health-related courses offered by continuing education
4 providers approved by the California Board of Registered Nursing.

5 (c) Health-related courses offered by recognized health
6 associations if the department determines the courses to be
7 acceptable.

8 (d) Health-related, employer-sponsored in-service training or
9 continuing education programs.

10 SEC. 9. Section 1247.8 of the Business and Professions Code
11 is amended to read:

12 1247.8. Each hemodialysis unit or clinic shall have information
13 available for inspection by the department survey teams which
14 ~~shows the local training program and competency test and the~~
15 ~~names of all hemodialysis technicians and hemodialysis technician~~
16 ~~trainees employed in the unit or clinic. Where a hemodialysis unit~~
17 ~~or clinic does not adopt a local training program and test, it shall~~
18 ~~provide proof~~ *verifies* that the hemodialysis technicians employed
19 *at the unit or clinic* meet the requirements of subdivision (a) of
20 Section 1247.6.

21 SEC. 10. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

30 SEC. 11. This act is an urgency statute necessary for the
31 immediate preservation of the public peace, health, or safety within
32 the meaning of Article IV of the Constitution and shall go into
33 immediate effect. The facts constituting the necessity are:

34 To avoid a critical shortage of hemodialysis technicians meeting
35 the requirements of the Medicare Program Conditions for Coverage
36 of End-Stage Renal Disease Facilities, it is necessary that this act
37 take effect immediately.